

UNITED STATES DISTRICT COURT  
IN THE WESTERN DISTRICT OF MICHIGAN

BENITO MEDINA,  
Plaintiff,

-vs.-

**DEMAND FOR JURY TRIAL**

PIONEER CREDIT RECOVERY, INC.,  
a Delaware corporation,  
Defendant.

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**COMPLAINT & JURY DEMAND**

Plaintiff, Benito Medina, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

**JURISDICTION**

1. This court has jurisdiction under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

**PARTIES**

3. The Defendant to this lawsuit is Pioneer Credit Recovery, Inc. which is a Delaware company that maintains registered offices in Oakland County.

## **VENUE**

4. The transactions and occurrences which give rise to this action occurred in Kalamazoo County.
5. Venue is proper in the Western District of Michigan.

## **GENERAL ALLEGATIONS**

6. Defendant is attempting to collect on a consumer type debt allegedly owed by Plaintiff in regards to a student loan.
7. Defendant first started contacting Plaintiff sometime in January 2012 through a letter that it sent Plaintiff.
8. Sometime during either the end of February 2012 or the beginning of March 2012, Plaintiff agreed to pay \$151.00 a month to Defendant on the alleged debt with the debt balance being \$16,997.11.
9. On or about March 9, 2012, Defendant sent Plaintiff a letter stating, "Per our conversation, please find enclosed a Rehabilitation Agreement." This letter represents a different balance of the alleged debt. It states that Plaintiff now owes \$20,683.38.
10. This balance is almost \$4,000 higher than the balance in the letter that Plaintiff received prior to this letter and the balance upon which the Plaintiff agreed to make payments.
11. Plaintiff never had a conversation with Defendant regarding this alleged Rehabilitation Agreement.

## **COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

12. Plaintiff reincorporates the preceding allegations by reference.
13. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
14. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
15. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
16. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;
17. The Plaintiff has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

## **COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE**

18. Plaintiff incorporates the preceding allegations by reference.
19. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).
20. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).
21. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915
22. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.
23. These violations of the Michigan Occupational Code were willful.

### **COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT**

24. Plaintiff incorporates the preceding allegations by reference.
25. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.
26. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.
27. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252
28. Plaintiff has suffered damages as a result of these violations of the MCPA.
29. These violations of the MCPA were willful.

### **DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury in this action.

### **DEMAND FOR JUDGMENT FOR RELIEF**

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted,

April 18, 2012

/s/ Gary Nitzkin

GARY D. NITZKIN P41155

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